

ENVIRONMENTAL PROTECTION COMMISSION  
MINUTES  
GENERAL MEETING AND PUBLIC HEARING  
JANUARY 7, 2004

The meeting was called to order at 7:35 p.m. in Room 119 of the Darien Town Hall.

Commission Members Present: Peter Hillman, Reese Hutchison, Robert Kenyon and Nina Miller

Commission Staff Present: Nancy Sarner

General Meeting:

Old Business:

Chairman Peter Hillman read the following agenda item:

Continuation of EPC-107-2003, Mr. and Mrs. Albutt, 11 Tulip Tree Lane, proposing a new driveway, plantings, and perform related site development activities within a regulated area. The property is located on the west side of Tulip Tree Lane approximately 500 feet west of the intersection of Raymond Street and Tulip Tree Lane, shown on Tax Assessor's Map #33 as Lot #45-4.

Nick Nelson of Glen Gate Company participated in the continuation of the review of Wetland Permit Application #EPC-107-2003 with the Commission. The EPC review of the application was opened during the December 3, 2003 meeting.

Mr. Nelson reported that per Commission request, an engineer's report was submitted for Commission review, along with a revised plan. The revised plan moved the driveway approximately 6 feet to 8 feet farther back from the wetlands so that the driveway would be no closer than 29 feet from the wetlands. Planting pockets were proposed to break up the landscaping.

Mr. Nelson stated that the property owners received ZBA approval for the swimming pool within the last month.

Mr. Nelson explained that he had an alternative to the revised plan that would save a significant sized Oak near the lower end of the driveway, but would shift the driveway closer to the wetlands. The driveway would remain outside the 50-foot setback. Ms. Miller asked how close the driveway would be in that area if changed to save the Oak tree. Mr. Nelson replied that it would be approximately 55 feet from the wetlands. Mr. Hillman noted that the EPC did not have jurisdiction over that area.

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Mr. Hutchison inquired to tree protection measures to be taken during construction. Mr. Nelson replied that they consulted with a tree expert, who recommended the use of vertical mulching. Mr. Nelson explained that vertical mulching was the injection of a sand and vermiculite mixture with fertilizers into the root systems to promote the regrowth of roots located beneath the driveway.

Ms. Miller asked Mr. Nelson how many trees would be removed. Mr. Nelson replied ten, including multiple stemmed trees.

Ms. Miller asked Mr. Nelson about changes in impervious coverage. Mr. Nelson replied that there would be approximately 600 square foot reduction in driveway area since it would be reduced from 5,240 square feet to 4,640 square feet, but that the overall impervious area would increase after the construction of the swimming pool and hardscape. Building coverage, which does not include driveways, walkways and on-grade patios and terraces, would increase from 5.5% to 6.6%.

Ms. Miller inquired about the revised planting plan. Mr. Nelson replied that the count of Arborvitae was decreased from 16 to 8 since they removed a row of trees to make room for the driveway modifications. He added that the number of Pachysandra proposed, 30 flats, remains the same.

Ms. Miller noted that a new retaining wall would be located outside the 50-foot setback area.

Mr. Hillman asked if anyone from the public wished to speak regarding the project. No one stepped forward. Mr. Nelson said that they spoke with the neighbors regarding the overall project and submitted letters of support to the ZBA.

Mr. Hillman thanked Mr. Nelson and the applicant for addressing the concerns raised by the members during the December 3, 2003 meeting.

Upon further discussion of the materials and plans submitted, the following motion was made: That the Commission approve the revised application proposal, as shown on the following plans:

- (1) "Zoning Location Survey & Topographic Survey of #11 Tulip Tree Lane Prepared for Graham J. Albutt & Nicola H. Albutt, Darien, Connecticut" by William W. Seymour & Associates, P.C., dated October 25, 2003, last revised December 15, 2003, overlaid with sketches of sediment and erosion control and construction features by Glen Gate Company, received by the Planning and Zoning Office on December 17, 2003, and
- (2) "The Albutt Residence, Planting Detail Plan, 11 Tulip Tree Lane, Darien, Connecticut", Drawing PD-1, dated November 12, 2003, received by the Planning and Zoning Office on December 17, 2003.

The motion was made by Mr. Hillman, seconded by Mr. Kenyon and unanimously approved.

New Business:

Chairman Peter Hillman read the following agenda item:

EPC-1-2004, David & Jennifer Shea, 6 Fox Hill Lane, proposing the paving of an existing driveway, installation of a swale, dredging of a pond, and perform related site development activities within a regulated area. The property is located on the south side of Fox Hill Lane approximately 345 feet west of the intersection of Fox Hill Lane and Mansfield Avenue, shown on Tax Assessor's Map #6 as Lot #104.

Kate Throckmorton of Environmental Land Solutions and Contractor Gene Nazzaro presented the application to the Commission. Mrs. Jennifer Shea was present to address questions from the Commission.

Ms. Throckmorton explained that the primary purpose of the application was to dredge the pond, which is located within the Cummings Brook waterway. She said that when they were before the EPC in June 2003, they received approval for an addition, after withdrawing a request to pave the existing gravel driveway. Ms. Throckmorton said that the driveway would be impacted by the proposed dredge activity, so they are requesting to also readdress the driveway issue.

Ms. Throckmorton stated that the driveway modification would include the regrading the area. She said that currently, water accumulates in the lower turnaround portion of the driveway. The regrading would create sheet flow to a proposed grass swale created on the west side of the drive. Ms. Throckmorton added that proposed mitigation included the replanting of the pond edge and maintaining a shallow shelf within the pond for emergent plants.

Mr. Nazzaro, who has been contracted to do the dredging activity, described the dredging process. He explained that a cofferdam would be installed north of the pond. Next, a pump pit, or crushed stone basin, would be installed to house the submersible pump, which would run continually to dewater the pond. Water would then be diverted around the pond. The driveway would be used for equipment access. Mr. Nazzaro reported that the dredging work would be conducted using a hydraulic dredger that has a minimum reach of 50 feet. He said they would work within the pond using timber planks for access to minimize disturbance, and that they would excavate what can remove from the site in one day, approximately 100 cubic yards. In response to a question, Mr. Nazzaro said that the hydraulic dredger uses vegetable oil, but does run on diesel fuel.

Mr. Nazzaro said that the existing pond depth is a maximum of 1 to 2 feet. He said he conducted soundings and found that there is a hard riverbed, and that the accumulated debris is organic material, such as leaves, and road sand. Mr. Nazzaro explained that, after dredging, the pond would have a 3:1 slope and a center depth of 8 feet, and that they would not alter the rock dam or expand the pond perimeter. He added that they would reset the existing emergency structure of the pond in stone.

Mr. Hillman asked Mr. Nazzaro about the type of equipment to be used. Mr. Nazzaro replied that the project would involve the use of the hydraulic excavator and dump trucks. He said that the excavator, a Hitachi EX120, is a  $\pm 10$  ton machine, with a 5/8-yard bucket and 50 foot reach. The body of the excavator is 8 feet 6 inches wide and can be easily moved on a trailer. Mr. Nazzaro explained that the dump trucks could legally carry  $\pm 18$  cubic yards legally, but that he planned to carry loads of only 12 to 13 cubic yards because it would be wet material. Mr. Hillman inquired about the disposal of the dredged materials. Mr. Nazzaro replied that all of

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the materials would be taken offsite to various appropriate locations, such as fill companies or farms. In response to a question, Mr. Nazzaro added that a diesel generator, which would be installed first, would run the pump. They would first install the generator.

Mr. Hillman explained that he had inquired to the equipment to be used to get a sense of the type of impact to the driveway that could be expected. Mr. Nazzaro said that he always places wooden planks on driveways to minimize impact. He said that he did note that the driveway is in poor condition. Mr. Hillman asked how many trips by the dump truck are anticipated.

Mr. Nazzaro replied approximately 30 loads, or three to four trips per day, depending on how stable the dredged material is.

Mr. Hillman asked why the driveway could not be restored back to gravel. Mr. Nazzaro replied that he did not fully inspect the driveway and therefore could not respond. Ms. Throckmorton stated that she was not trying to represent that the driveway must be paved but that it would need to be reconstructed after the dredging activity is completed. She said that the plan tried to address any concerns regarding driveway runoff by incorporating the regrading activity. She explained that, with the regrading, sheet runoff would drain to the swale rather than one area in the lower end of the driveway. Ms. Throckmorton asked the Commission to take weight of the fact that the existing driveway is located within the regulated area and that they are not proposing any expansion. She stated that petroleum products washed from the driveway area would be ameliorated by the vegetated buffer, while herbicides that may be used on gravel driveways are not. Mr. Hillman said in June 2003, the EPC requested that, if the owner wished to reapply for the paving of the driveway, a review of thermal pollution, and any potential increase in the rate and volume of runoff be presented. Ms. Throckmorton responded that they did not miss that point made by the EPC in 2003, and could have an engineer review the project. She said that she believed that the surface change was almost immeasurable and therefore had recommended mitigation to offset impact. Mr. Hillman said he would like to uphold the Commission's June 2003 recommendation that an impact review is submitted, and asked the other members if they agreed or disagreed. Mr. Hutchison agreed, and added that he would be interested to see what changes in runoff velocity and temperature would occur by changing the driveway from gravel to pavement. He noted that they have seen engineers argue both sides of the issue.

Ms. Throckmorton acknowledged that the trend is to generally try to limit pavement in wetland environments, but that she feels that the impact under this application is negligible at best.

Mr. Nazzaro said the current winter conditions provide an ideal time to dredge because of the frozen ground, but that timing depends on water flow. Mr. Hutchison asked Mr. Nazzaro about his work schedule. Mr. Nazzaro replied they could do the work within a month or so, weather depending. Mr. Hillman advised the applicant that they could resubmit for the driveway when they have all the information and possibly receive a decision that night, or that the Commission could continue the whole application to the next meeting. Ms. Miller asked that the owner consider the alternative of paving a portion of the driveway and maintaining a gravel area. Mr. Hutchison asked if hay bales would be installed within the channel prior to dredging. Mr. Nazzaro replied that a minimum five hay bales would be installed as check dams, and would be staked from embankment to embankment with silt fencing installed behind them.

Ms. Miller asked about impact to hibernating wildlife. Mr. Nazzaro replied that some would be disturbed but that he has found from experience that wildlife responds quickly to improved pond environments and return. He added that he does not have a count or assessment of the species located on the site. Ms. Throckmorton said impact to wildlife depends on time the dredging is conducted. She explained that if they work in the winter, they would disturb hibernating species, such as turtles or snakes, and if they worked in the summer, they could relocate any found species, which would return. Mr. Nazzaro said he did not see any turtles. Mrs. Shea reported that she only saw one turtle last year.

Ms. Miller asked about an aerator. Mrs. Shea said that she discussed the installation of an aerator but has not selected a model. Mr. Nazzaro said that he recommended a subsurface bubbler that would be set on a timer, and that for installation they would create a 4' high stone structure that would be easy to clean out. He noted that currently, the dam is stopping materials from moving downstream. Ms. Throckmorton added that the aerator has been included as part of the application proposal.

Ms. Throckmorton said, in response to an earlier question from Chairman Hillman, that it would be easier and less complicated to continue the application as a whole.

Mr. Hillman asked for a general feeling of how the members viewed the dredging aspect of the application. It was the consensus that the dredging was acceptable.

Mr. Hillman reiterated that the applicant return with more information regarding impact, including the runoff report, and consider the alternative of creating a part gravel, part paved driveway. Mr. Hutchison added that more information be provided regarding the need, or purpose, of the proposed paving activity. Mrs. Shea briefly replied that she wanted to create a safe area, instead of the roadway, for her children to ride bikes.

The application was continued until the February 4, 2004 meeting.

Chairman Peter Hillman read the following agenda item:

EPC-2-2004, Carol Tellini, Ashton Holdings, LLC, 24 Lake Drive, proposing the demolition and reconstruction of a single-family residence, and perform related site development activities. Subject property is located on the north side of Lake Drive approximately 1000 feet west of the intersection of Hoyt Street and Lake Drive, shown on Tax Assessor's Map #30 as Lot #10.

Ted Malone of Redniss & Mead and Carol Tellini of Ashton Holdings were present to discuss the application with the Commission.

Ms. Tellini explained that the windows of the house had been bordered up with wood because asbestos was found in the window frames. The asbestos removal was required by the Building Department prior to the demolition of the structure.

Upon further discussion of the plans and materials presented, the following motion was made: That the Commission approve Wetlands Permit Application #EPC-2-2004 as submitted. The work shall conform to the plan entitled "Site Development Plan Depicting 24 Lake Drive,

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Darien, CT, Prepared for Ashton Holdings, LLC,” Drawing No. SE-1, by Redniss & Mead, dated December 10, 2003. The motion was made by Mr. Hutchison, seconded by Ms. Miller, and unanimously approved.

Public Hearing:

Chairman Peter Hillman read the following agenda item:

Amendment of Wetland Boundary Map for the Town of Darien, revised to incorporate specific site soil surveys approved by the Environmental Protection Commission. The Town amends its wetland boundary map annually to reflect new information regarding soils and wetland and watercourses collected throughout the year.

Chairman Hillman explained that the wetland boundary map was amended on an annual basis. Ms. Sarner reported that the map was amended to reflect 74 site-specific soil surveys, after a review of 117 files.

Mr. Hutchison and Mr. Kenyon noted areas of unmapped wetlands. Ms. Sarner explained that the Planning and Zoning Office is aware that areas of wetlands are missing from the general resource mapping, and presented a marked-up copy of the map for office use, referred to as the “Red Circle Map”. The staff marks the map as they become aware of potential areas of unmapped wetlands. Ms. Sarner reported that the Town would obtain the services of soil scientists from time to time to investigate areas of suspected wetland resources. Mr. Hutchison recommended that the public be educated of any tax credit that is offered for properties containing wetlands. He asked how the presence of wetlands is indicated on the Tax Assessor’s field cards. Ms. Sarner replied that she did not know.

After being invited to come forward, Mr. Flanagan of 3 Stony Brook Road South reviewed the draft amended map and confirmed that it reflects the soil survey he submitted under Wetland Permit Approval #EPC-79-2002.

Upon further review and discussion of the proposed amended map, the following motion was made: That the Commission adopt the 2003 wetland map update as the official Town Regulated Wetlands and Watercourses Map, to become effective at 12:01 a.m. on January 8, 2004. The motion was made by Mr. Hillman, seconded by Ms. Miller, and unanimously approved.

Chairman Peter Hillman read the following agenda items:

Planning and Zoning Transmittals:

- Coastal Site Plan Review #167-B, Flood Damage Prevention Application #176-B, Darien Sewer Commission/DPW, Long Neck Point Road, Pear Tree Point Road, Crane Road sewer extension project. Proposal to construct a sanitary sewer line within the bridge deck of the Ring’s End Road bridge, to connect the proposed (and previously approved) sanitary sewer line on Long Neck Point Road to the existing sewer on Ring’s End Road.

The Commission requested that Ms. Sarner forward the December 3, 2003 meeting minutes and resolution for Wetland Permit Approval #EPC-83-2001, Darien Sewer

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Commission, Long Neck Point & Pear Tree Point Road, to the Planning and Zoning Commission.

- Flood Damage Prevention Application #200, Land Filling & Regrading Application #114, Carol Tellini, Ashton Holdings, LLC, 24 Lake Drive. Proposing to raze the existing residence and construct a new single-family residence and perform related site development activities.

The Commission requested that Ms. Sarnier forward the January 7, 2004 decision regarding Wetland Permit Approval #EPC-2-2004, Carol Tellini, Ashton Holdings, LLC, 24 Lake Drive, to the Planning and Zoning Commission.

Approval of Minutes:

- Minutes for the October 1, 2003 Joint Public Hearing with the ZBA:  
The motion for adoption of the minutes, as corrected, was made by Mr. Hillman and seconded by Ms. Miller. Voting in favor of the motion were Mr. Hillman, Ms. Miller and Mr. Kenyon. Mr. Hutchison abstained from the vote.
- Minutes for the October 1, 2003 EPC General Meeting and Public Hearing:  
The motion for adoption of the minutes, as corrected, was made by Mr. Hillman and seconded by Ms. Miller. Voting in favor of the motion were Mr. Hillman, Ms. Miller and Mr. Kenyon. Mr. Hutchison abstained from the vote.
- Minutes for the October 23, 2003 meeting:  
The motion for adoption of the minutes, as corrected, was made by Mr. Hutchison and seconded by Ms. Miller. Voting in favor of the motion were Mr. Hutchison, Ms. Miller and Mr. Kenyon. Mr. Hillman abstained from the vote.
- Minutes for the November 5, 2003 meeting:  
The motion for adoption of the minutes, as corrected, was made by Mr. Hillman, seconded by Ms. Miller and unanimously approved.
- Minutes for the December 3, 2003 meeting:  
The motion for adoption of the minutes, as corrected, was made by Ms. Miller, seconded by Mr. Hillman, and unanimously approved.

Other Business:

Discussion regarding the Performance Bond for EPC-93-2003, Foster Kaali-Nagy, 59 Five Mile River Road:

Ms. Sarnier reviewed the estimate for the cost of plant material and labor by Young Nurseries, which totaled \$7,174.00. This estimate was requested under the resolution for #EPC-93-2003 for the determination of the amount to be posted for the performance bond. The Commission accepted the estimate, and determined that the bond shall be posted for \$7,000.00.

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Having no further business to attend to, it was the consensus of the meeting that the Commission adjourn at 9:15 p.m.

Respectfully submitted,

Nancy H. Sarner  
Environmental/GIS Analyst

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